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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,789	02/18/2004	Tsuyoshi Nakayama	249031US6	9847
22850	7590	08/14/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER DUONG, OANH L	
			ART UNIT 2155	PAPER NUMBER
			NOTIFICATION DATE 08/14/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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**Office Action Summary**

Application No.

10/779,789

Applicant(s)

NAKAYAMA ET AL.

Examiner

Oanh Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02/18/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 02/26/07 & 05/55/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1-9 are presented for examination.

#### ***Specification Objection***

2. The disclosure is objected to because of the following informalities:

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Appropriate correction is required.

#### ***Claim Objections***

3. Claims 1, 7-9 are objected to because of the following informalities:

The feature "said second ID" should be "said second IDs" or "at least one of said second IDs"; the feature "said first ID" should be "said first IDs" or "at least one of said first IDs"; "the point-in-time" in line 24 of claim 1 should be "a point-in-time".

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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5. Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 9 is not limited to tangible embodiments. The claim recited "A program..." is nonstatutory. Since claim 9 recites, "A program ..." is just limited to a functional descriptive materials" consists of program per se, instead of being defined as including tangible embodiments (i.e., a computer readable storage medium such as memory device, storage medium, etc.). As such, the claim is not limited to statutory subject matter and is therefore nonstatutory.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kokado et al. ("Kokado"), US 2001/0018713 A1.

Regarding claims 1-5, Kokado teaches an information processing device (*i.e.*, server 6 Fig. 3), comprising:

first managing means for managing first IDs for identifying another device other than said information processing device itself (*i.e.*, unique identifier ID<sub>user</sub>, page 3 paragraph [0063]);

second managing means for managing second IDs for identifying contents (i.e., identifier ID<sub>CD</sub>, page 3 paragraph [0067]);

supplying means for supplying said second ID managed by said second managing means to said other device upon said other device making a request for distribution of said contents (page 4 paragraphs [0074]-[0078]);

identifying means for identifying said first ID managed by said first managing means based upon the information for identifying said first ID and said second ID received from said other device (page 5 paragraphs [0078]-[0081]);

generating means for generating a schedule for distributing said contents identified by said second ID to said other device corresponding to said identified first ID in the event that said first ID has been identified by said specifying means (page 4 paragraph [0074] and page 7 paragraph [0098]); and

distributing means for distributing said contents according to said schedule generated by said generating means (page 8 paragraph [0109]), wherein in the event that the user having said other device has specified the point-in-time for distributing said contents through said other device (page 5 paragraph [0079]), said generating means determine whether or not transmission of said contents can be performed at the specified point-in-time, and in the event that determination has been made that the transmission can be performed, said generating means generate a schedule for transmission of said contents with the specified transmission point-in-time (page 5 paragraph [0081]).

Regarding claim 2, Kokado teaches an information processing device according to claim 1, wherein said generating means determine whether or not said distributing means have sufficient transmission capability for distributing said contents at said specified point-in-time, by the distributing means referring to the schedule corresponding to said specified point-in-time, which has been generated, so as to confirm the data size of said contents corresponding to said specified transmission point-in-time, which has been specified, and determining whether or not said distributing means have sufficient transmission capability for transmitting said contents with the data size which is the sum of said data size which has been confirmed and the data size of the content data regarding which a new schedule is to be generated (page 7 paragraphs [0098]-[103]).

Regarding claim 3, Kokado teaches an information processing device according to claim 1, wherein in the event that said identifying means identify said two first IDs based upon the information received from said other device, said identifying means identify one first ID as a billing user ID for identifying the user which is to be billed for said contents, and the other first ID as a destination ID for identifying the destination device for receiving said contents; and wherein said generating means generate a schedule for billing the user identified by said billing user ID, and distributing said contents to said other device identified by said destination ID (page 9 paragraphs [0112]-[0116]).

Regarding claim 4, Kokado teaches an information processing device according to claim 3, further comprising query means for making a query to the user having said other device identified by the destination ID, regarding whether or not the intended recipient will accept distribution of said contents in the event that said identifying means have identified said destination ID; wherein, in the event that said identifying means have identified said destination ID, said generating means generate an unfixed schedule, and upon said generating means receiving a response that the intended recipient has decided to accept distribution of said contents as a response to the query transmitted from said query means, said generating means change said unfixed schedule to a fixed schedule; and wherein said distributing means distribute said contents according to said fixed schedule (page 10 paragraph[0128]-page 11 paragraph [0131]).

Regarding claim 5, Kokado teaches an information processing device according to claim 1, further comprising schedule-supplying means for supplying a schedule to said other device corresponding to said first ID in the event that said other device corresponding to said first ID has made a request for supplying said schedule, and said generating means have generated said schedule for said other device corresponding to said first ID (page 4 paragraph [0074]).

Regarding claim 6, Kokado teaches an information processing device according to claim 1, further comprising: determining means for determining whether or not said

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other device corresponding to said first ID can receive and store said content data transmitted according to said schedule; and updating means for updating said schedule in the event that said determination means have determined that said other device corresponding to said first ID cannot receive and store said content data (page 8 paragraphs [0106]-[0109]).

Regarding claim 7, this claim recites an information processing method performed by an information processing device claim 1, discussed above, same rationale of rejection is applicable.

Regarding claim 8, this claim comprises a recording medium storing a computer-readable program, said program comprising code for performing method claim 7, same rationale of rejection is applicable.

Regarding claim 9, this claim comprises a program for causing a computer to perform a method claim 7, same rationale of rejection is applicable.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oanh Duong whose telephone number is (571) 272-3983. The examiner can normally be reached on Monday- Friday, 9:30PM - 6:00PM.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
O. Duong  
Primary Examiner  
August 6, 2007, 2007